

**LFC Requester:****Julia Downs**

**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**    ☐    **Amendment**    ☐  
**Correction**    ☐    **Substitute**    ☒

**Date** 2/13/2016

**Bill No:** HB 72

**Sponsor:** Reps. Gentry and P.S. Pacheco

**Agency Code:** 305

**Short**    Allow Use of Juvenile

**Person Writing**    Rick Word

**Title:**    Disposition and Evidence -FS

**Phone:** 827-6029

**Email** rword@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

## **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

##### **Synopsis:**

The House Floor substitute for House Judiciary Committee substitute for HB 72 makes only two relatively minor changes. First, it substitutes the more specific phrase "a felony" for the general phrase "an offense" on pages 1 and 6 of the bill. Secondly, it substitutes the phrase "for the purpose of" for the word "when" on lines 1, 5 and 24 of page 6 of the bill. The first amendment has the effect of limiting the use by criminal courts of juvenile dispositions and related evidence, as provided in the bill, to the setting of conditions of release or the rendering of a sentence on felony charges.

#### **FISCAL IMPLICATIONS**

##### **SIGNIFICANT ISSUES**

Two significant issues that were identified in our analyses of prior versions of this bill continue to exist in the House floor substitute to HB 72.

First, the statutes amended under HB 72fs are contained in the Children' Code, which specifies that use of the term "court" in that code without qualification shall mean the children's court division of the district court. See NMSA 1978, Section 32A-1-4(C). The Children's Code similarly defines "judge" to mean a judge in the children's court division. See Section 32A-1-4(N). If it is the intent of this bill to allow non-Children's Court judges to consider juvenile dispositions and related evidence in criminal proceedings, the defined terms "court" and "judge" should be so qualified.

Second, this substitute bill does not appear to address the apparent conflict with the Delinquency Act. As we have previously noted, by allowing the consideration of a juvenile disposition and evidence given in juvenile proceedings in subsequent criminal proceedings involving the same person as an adult, HB72fs potentially conflicts with a stated purpose of the Delinquency Act. The Delinquency Act identifies as the first of numerous purposes the following: "[C]onsistent with the protection of the public interest, to remove from children committing delinquent acts the adult consequences of criminal behavior...." NMSA 1978, Section 32A-2-1(A). Allowing courts to consider the juvenile disposition of a youthful offender and evidence given at hearings relating to such a disposition in later cases where that individual is charged as an adult could be perceived as contrary to one of the principal purposes of the Delinquency Act.

#### **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

See the first issue under Significant Issues above.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**